

Department of the Army
Office of The Judge Advocate General
Washington 25, D.C.

ARMY Declass/Release Instructions On File Declassification/Release Instructions
on File

JAGA 1947/2281B

18 September 1947

LEGAL ASSISTANCE MEMORANDUM
No. 46

MEMORANDUM TO LEGAL ASSISTANCE OFFICERS

1. Changes in the Directory of Bar Organizations, 18 February 1946. - The following changes have been made in the Directory -

District of Columbia: Garland E. Taylor, 911 17th Street, N.W., Washington, D.C., has succeeded Samuel M. Greenbaum as Chairman of the District Bar Association Committee on Legal Assistance for Servicemen. The Legal Aid Bureau of the District of Columbia has moved from 1400 L Street, N.W., to 805 G Street, N.W., Washington, D.C.

2. Discontinuance of Personal Affairs Offices. - The Personal Affairs program has been reduced to prewar levels and made the responsibility of unit commanders. Legal Assistance Officers should familiarize themselves with the arrangements which have been made within their commands for handling matters heretofore referred to Personal Affairs Offices.

3. Armed Forces Leave Act of 1946. - The act has been amended by Public Law 254 - 80th Congress, approved 26 July 1947 (sec. II, Bull. 19, WD, 1947), to provide that settlement and compensation under the act shall be made entirely in cash in the case of any applicant who has not made application for settlement and compensation and who after the mentioned date requests that the settlement and compensation be made entirely in cash. Armed forces leave bonds issued pursuant to the act "shall mature five years from the date thereof, but shall be redeemable in cash at any time after September 1, 1947, at the option of the holder thereof, at full face value plus accrued interest". The last day to make application for settlement and compensation is changed from 1 September 1947 to 1 September 1948. Any officer serving on active duty who is entitled to benefits under the Armed Forces Leave Act and has not yet made application therefor, should obtain the necessary form from any Army Finance Office and mail it, carefully filled out, to the Army Finance Office which last paid him, or if that office has been deactivated, to the Finance Officer,

JAGA 1947/2281B

United States Army, Army Finance Center, Building 205, St. Louis 20, Missouri. Unit Personnel Officers are responsible for the processing of claims of enlisted personnel on active duty (see Circulars 243, 251, 308 and 342, WD, 1946).

4. Evictions and Rent Control. - The Housing and Rent Act of 1947 (Public Law 129 - 80th Cong., approved 30 June 1947), which is effective until 29 February 1948, continues with certain modifications and exceptions the limitations on evictions and rent increases which were in effect on 30 June 1947. Sections of the act of special interest to servicemen and their dependents are set forth at length in the inclosure.

5. Federal Income Tax. - Section 251 of the Internal Revenue Code (26 U.S.C. 251), providing for the exclusion from gross income of income from sources within possessions of the United States (see par. 4, IAM No. 26; pp. 29-30 of Treasury Department pamphlet "Your Federal Income Tax" distributed with IAM No. 44; and pars. 8 and 9, Cir. 211, WD, 1945), has been amended by Public Law 310 - 80th Congress, to provide that in the case of a citizen of the United States taken as a prisoner of war while serving within a possession of the United States as a member of the military or naval forces of the United States, and in the case of a citizen interned by the enemy while serving as an employee within a possession of the United States, the place of confinement or internment shall be considered as within a possession of the United States, and compensation received within the United States attributable to the period of confinement or internment shall be considered as compensation received outside the United States. The amendment is made applicable to taxable years beginning after 31 December 1941. Former prisoners of war and internees who were captured while serving in a possession of the United States and have paid Federal income taxes covering compensation received for the period of captivity, should examine their tax returns in the light of this amendment, and file appropriate claims for refund on Treasury Form 843 with the Collector of Internal Revenue to whom payment was made.

6. Federal Income Taxes of Military Personnel Dying in Active Service. - Public Law 367, approved 5 August 1947, amends section 421 of the Internal Revenue Code (26 U.S.C. 421) to provide that any member of the armed forces of the United States or of any of the other United Nations, who dies while in active service after 6 December 1941 and before 1 January 1948, shall not be subject to Federal income taxes with

JAGA 1947/2281B

respect to any taxable year (ending on or after 7 Dec 1941) during any part of which he was a member of such forces. Heretofore, if taxes for any year, other than the year in which death occurred, were paid prior to the serviceman's death they could not be refunded. Under the amendment, taxes paid for any year in which the decedent served during the mentioned period may be credited or refunded as an overpayment. Claims for credit or refund may be filed on Treasury Form 843 before 1 January 1949 or within three years after payment, whichever is later. Any liability for unpaid taxes for any of the years included in the mentioned period or for any prior years is cancelled or abated.

7. Federal Income Tax Changes Effected by Public Law 384 - 80th Congress. - a. Section 13(c)(2) of the Missing Persons Act (56 Stat. 146; 50 U.S.C. App., Sup V, 1013(c)(2)) is amended by inserting "December 31, 1947," in lieu of "the fifteenth day of the third month following the month in which the present war with Germany, Italy, and Japan is terminated, as proclaimed by the President," as one of the dates the earliest of which fixes the time prior to which no Federal income tax return or payment shall become due, from any military, naval or civilian personnel who at the time any such return or payment would otherwise become due is a prisoner of war or is otherwise detained by any foreign government with which the United States is at war, or from any individual who is in the military or naval forces on sea duty or outside the continental United States at the time any such return or payment would otherwise become due.

b. Section 22(b)(13) of the Internal Revenue Code (26 U.S.C. 22(b)(13)); see page 31, Treasury Department pamphlet "Your Federal Income Tax") is amended to provide that the additional allowance for military and naval personnel, whereby the pay of enlisted personnel, and the first \$1500 of the pay of commissioned personnel is excluded from gross income, shall apply only to compensation received prior to 1 January 1949.

c. On and after 1 January 1949 military pay will be subject to withholding of Federal income tax at the source in the same manner as civilian pay.

d. Section 421 of the Internal Revenue Code (26 U.S.C. 421; see par. 10, Cir. 211, WD, 1945) providing for the abatement of tax in the case of "any individual who dies after December 7, 1941 while in active service as a member of the military or naval forces of the United States or of any of the other United Nations and prior to the termination

JAGA 1947/2281B

of the present war as proclaimed by the President", is amended by striking out "the termination of the present war * * * President" and inserting in lieu thereof "January 1, 1948" (see also par. 6, supra).

e. Section 3804(c) of the Internal Revenue Code (26 U.S.C. 3804(c); see par. 6, Cir. 211, WD, 1945), fixing the maximum period of time to be disregarded in determining, under the internal revenue laws, whether tax returns were filed or taxes paid within the time prescribed therefor, is amended to read -

"The period of time disregarded under this section shall not extend beyond whichever of the following dates is the earlier;

(1) December 31, 1947, or such date later than December 31, 1947, as the Commissioner may fix in any case in which he makes a determination under subsection (b) if such determination is made after the date this subsection as amended takes effect and is based on the existence prior to January 1, 1948, of one or more of the circumstances specified in paragraph (1), (2), or (3) of subsection (b); or

(2) in the case of an individual with respect to whom a period of time is disregarded under this section, the fifteenth day of the third month following the month in which an executor, administrator, or a conservator of the estate of such individual qualifies."

It will be noted that the amendment provides that the period of time for performing certain acts postponed by reason of the war (including filing of income tax returns and payment of income taxes) shall not extend beyond 31 December 1947 or such later date as the Commissioner of Internal Revenue may fix (or the fifteenth day of the third month following the month in which an executor, administrator, or a conservator of the estate of the taxpayer qualifies, if earlier than 31 December 1947). In a number of cases of members of the armed forces who have been overseas for a period of years and are still overseas at the end of 1947 or who return to the United States in the latter part of 1947, it would work a hardship to require such persons to prepare and file all their back income tax returns by 31 December 1947.

It is believed that there will be some official announcement covering the procedure to be followed by the individual taxpayer in order to obtain a short extension of time to file returns and pay taxes in cases of this kind. Further information on this subject will be supplied to legal assistance offices as soon as it becomes available.

JAGA 1947/2281B

Pending the receipt of such information, it is suggested that each serviceman and civilian employee who is unable to prepare and file his income tax returns as indicated above, be prepared to make written application before 1 January 1948, by letter addressed to the Collector of Internal Revenue with whom the taxpayer intends to file his returns, listing the taxable years for which no income tax returns were filed and the periods of time, including dates, during which the taxpayer was outside the United States or on sea duty, and requesting a further postponement as follows:

- (a) In cases where the taxpayer has returned to the United States after 30 June 1947 and before 1 January 1948 - to the 15th day of the sixth month following the month in which he returned to the United States.
- (b) In cases where the taxpayer is still overseas on 31 December 1947 - to 15 June 1948.

This does not relate to income tax returns for 1947 or declarations of estimated tax for 1948. Such returns and declarations will be due on 15 March 1948 unless the taxpayer is then outside the United States, in which event the due date will be 15 June 1948.

8. Free Entry of Gifts From Members of the Armed Forces. - Public Law 384, 80th Congress, amends the statute (act 5 Dec 1942, 56 Stat. 1041; 50 U.S.C. App., 846, 847) which provides for free entry for gifts from members of armed forces of the United States on duty abroad, by (1) adding to the clause requiring that the articles be bona fide gifts, the further requirement that they were purchased in or through authorized agencies of the armed forces or in accordance with regulations prescribed by the major geographical commands of the United States armed forces; (2) providing that amendment (1) shall be applicable in the case of articles entered for consumption or withdrawn from warehouse for consumption on and after 1 September 1947; and (3) fixing "July 1, 1949" as the termination date.

9. Immigration. - Public Law 126, 80th Congress, extends to 31 December 1947, the period of validity of the act to facilitate the admission into the United States of the alien fiancées or fiancés of members of the armed forces of the United States.

10. Nationality Act of 1940. - This act has been further amended by Public Law 81, 80th Congress, to permit naturalization proceedings to be had at places other than in the office of the clerk or in open court in the case of sick or physically disabled individuals.

JAGA 1947/2281B

11. Servicemen's Readjustment Act of 1944 (G.I. Bill of Rights). - Section 3, Public Law 239, 80th Congress, provides that 25 July 1947 shall be deemed to be the date of the termination of the war, in interpreting sections 500(a) and 507 [loans] and 700(a) [unemployment readjustment allowances] of the act of 22 June 1944, as amended (50 U.S.C. 694, 694h and 696).

12. Soldiers' and Sailors' Civil Relief Act of 1940: Article IV, Insurance. - Section 4 of Public Law 239, 80th Congress, approved 25 July 1947, provides that for purposes of Article IV of the act, as amended (secs. 400-408; 50 U.S.C. App. 540-548), the present war shall be deemed to have terminated within the meaning of section 604 (50 U.S.C. App. 584) as of 25 July 1947.

13. Supplemental List of Materials. - All legal assistance materials furnished to legal assistance offices between 29 December 1945 and 18 September 1947 are listed on the inclosure. This inclosure supplements the list of materials distributed with Legal Assistance Memorandum No. 34. Copy of any listed item which is not in the files of a legal assistance office will be supplied on request.

14. Veterans' Reemployment Rights. - Functions and responsibilities formerly carried by the Selective Service System in assisting veterans as necessary to obtain the reemployment rights and benefits to which entitled under the Selective Training and Service Act were transferred to the Department of Labor by Public Law 26, 80th Congress (sec. III, Bull. 5, WD, 1947). The Secretary of Labor has established in the Department of Labor a Division of Veterans' Reemployment Rights. Field representatives will be responsible for the division's activities in the several states. Local reemployment committeemen will be designated to assist veterans as necessary in negotiating with employers to obtain reemployment rights. Local offices of the state employment services, county service officers, or service officers of veterans' organizations can direct veterans to such committeemen (Sec. V, Cir. 227, WD, 1947).

15. Publications. - Attention is invited to the publications listed below as having direct or indirect relation to legal assistance matters:

- a. Sec. I, Cir. 44, WD, 1947 (Termination of Class B allotments to dependents joining military personnel in Germany or Japan; family allowances to enlisted men's dependents overseas).
- b. Sec. I, par. 2, Cir. 86, WD, 1947 (State, City and Territorial Income Taxes).

JAGA 1947/2281B

- c. Sec. I, Cir. 109, WD, 1947 (Functions of Special Settlements Accounts Division, AFC, transferred to Finance Office, U.S. Army, Army Finance Center, OCF, Bldg. 205, St. Louis 20, Missouri).
- d. Sec. IV, Cir. 110, WD, 1947 (United States Government Life Insurance - Explanation of provisions of Public Law 34, 80th Cong., regarding renewal of expiring 5-year level premium term policies). See also Sec. VI, Bull. 7, WD, 1947.
- e. Sec. IV, Cir. 219, WD, 1947 (Baggage - Oversea shipment, transportation, storage).
- f. Sec. IV, Cir. 226, WD, 1947 (Time limit for reinstatement of term and converted National Service Life Insurance on a comparative health basis extended to 31 Dec 1947).

FOR THE JUDGE ADVOCATE GENERAL:

2 Incls.

Harold D. Beatty
HAROLD D. BEATTY
Lieutenant Colonel, JAGD
Chief, Legal Assistance Branch
Military Affairs Division

71114